

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEVIN MAURICE TENNIN, ) No. C 11-4362 JSW (PR)  
Plaintiff, )  
v. )  
BLASE DEL, et al., )  
Defendants. )  
\_\_\_\_\_  
**ORDER PROVIDING  
PLAINTIFF NOTICE AND  
WARNING**

Plaintiff, a California prisoner pro se, filed this civil rights action under 42 U.S.C. § 1983. Defendants have filed an unenumerated motion to dismiss under Rule 12(b) in which they argue that Plaintiff's claims are not exhausted as required by 42 U.S.C. § 1997e. In preparing any opposition to Defendants' motion, Plaintiff is cautioned for a second time pursuant to *Woods v. Carey*, No. 09-15548, slip op. 7871, 7884-85 (9th Cir. July 6, 2012):

**If defendants file an unenumerated motion to dismiss for failure to exhaust, they are seeking to have your case dismissed. If the motion is granted it will end your case.**

You have the right to present any evidence you may have which tends to show that you did exhaust your administrative remedies. Such evidence may be in the form of declarations (statements signed under penalty of perjury) or authenticated documents, that is, documents accompanied by a declaration showing where they came from and why they are authentic, or other sworn papers, such as answers to interrogatories or depositions.

1           **If defendants file a motion to dismiss and it is granted, your case  
2           will be dismissed and there will be no trial.**

3       *See also Wyatt v. Terhune, 315 F.3d 1108, 1120 n. 4 (9th Cir. 2003).*

4       Plaintiff's opposition is due on or before **August 2, 2012**. Defendants **shall** file a  
5       reply brief within **14 days** of the date any opposition is filed. All of the other provisions  
6       of the order of service remain in effect.

7           **IT IS SO ORDERED.**

8       DATED: July 11, 2012

  
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JEFFREY S. WHITE  
United States District Judge

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

TENNIN,

Case Number: CV11-04362 JSW

Plaintiff,

## **CERTIFICATE OF SERVICE**

V.

DEL, et al.,

**Defendant.**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 11, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kevin M. Tennin AK-1898  
Pelican Bay State Prison  
P.O. Box 7500  
A2-Cell 207  
Crescent City, CA 95532

Dated: July 11, 2012

Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk

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